

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ELIZABETH JENKINS,**

Plaintiff,

vs.

Civ. No. 03-522 ACT/WDS

**EDUCATIONAL CREDIT  
MANAGEMENT CORPORATION,**

Defendant.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** is before the Court on Defendant Educational Credit Management Corporation's Motions in Limine filed November 22, 2004 (Docket No. 90). Defendant is seeking an Order excluding specific evidence in the trial of this matter. Upon review of the pleadings and being otherwise advised in the premises, the court finds that Defendant's Motion will be granted in part.

*Plaintiff's recoverable damages.*

The only remaining claim in this matter is retaliation under the Age Discrimination in Employment Act (“ADEA”). Under the ADEA, damages are limited to the amount of lost wages and statutory liquidated damages. Kempe v. Prince Gardner, Inc., 569 F. Supp. 779, 781 (D. Oregon 1983)(citing to Lorillard v. Pons, 434 U.S. 575 (1978)). Plaintiff has not made a claim for liquidated damages so her damages are limited to lost wages. Evidence on damages for emotional pain and

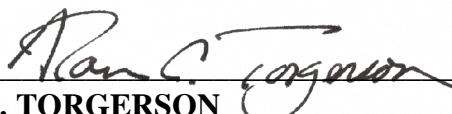
suffering, loss of enjoyment of life or punitive damages will be excluded, granting parts I, II, III and IX of Defendant's Motion.

*Evidence concerning Harassment/Hostile Work Environment, Race, National Origin or Ethnicity and Americans with Disabilities Act ("ADA").*

The Court has dismissed any claims asserted by Plaintiff concerning harassment/hostile work environment, race discrimination or retaliation, and the ADA. Docket Nos 71 and 83. Thus the Court will exclude any evidence or testimony regarding these claims, granting parts IV, VI and VII of Defendant's Motion.

*Parts V and VIII of Defendant's Motion.*

Part V of Defendant's Motion requests the Court to exclude any evidence that Defendant requested Plaintiff to sign a Release of all claims in connection with her employment when she was terminated. Part VIII requests the Court to exclude any testimony from Isabel Martinez, Carol Shaw and Patricia Ochoa regarding any alleged discrimination against them and the changing of their performance evaluations. The Court will take these requests under advisement and hear further argument at trial.



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ALAN C. TORGERSON  
UNITED STATES MAGISTRATE JUDGE